

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

EMANUELE STEVENS, individually and on behalf of all others similarly situated,

Plaintiff,

v.

PEPSICO INC., BOTTLING GROUP, LLC, CB MANUFACTURING COMPANY, INC., FL TRANSPORTATIONS, INC., FRITO-LAY, INC., GOLDEN GRAIN, INC., GRAYHAWK LEASING, LLC, JUICE TRANSPORT, INC., NEW BERN TRANSPORT CORPORATION, PEPSI NORTHWEST BEVERAGES, LLC, PEPSI-COLA SALES & DISTRIBUTION, INC., PEPSI-COLA BEVERAGE SALES, LLC, PEPSICO SALES, INC., QUAKER MANUFACTURING, LLC, ROLLING FRITO-LAY SALES, LP, SVC MANUFACTURING, INC., TROPICANA MANUFACTURING CO., TROPICANA PRODUCT SALES, INC., TROPICANA SERVICES, INC.,

Defendants.

MOISES MADRIZ AND RODNEY ULLOA, individually and on behalf of all others similarly situated,

Plaintiff,

v.

PEPSICO, INC.; NAKED JUICE CO.; NAKED JUICE CO. OF GLEN DORA, INC.; TROPICANA PRODUCTS, INC.; and TROPICANA SERVICES, INC.,

Defendants.

) **NOTICE OF PLAINTIFFS' MOTION**
) **FOR (1) FINAL APPROVAL OF CLASS**
) **AND COLLECTIVE ACTION**
) **SETTLEMENT; (2) AWARD OF**
) **ATTORNEYS' FEES AND EXPENSES;**
) **AND (3) APPROVAL OF SERVICE**
) **PAYMENTS TO THE NAMED**
PLAINTIFFS

) CASE NO. 7:22-cv-00802-NSR

)

)

)

)

)

) CASE NO. 1:22-cv-04851-NSR

)

)

)

)

RICARDO VIDAUD, individually and on behalf of all others similarly situated,)
Plaintiff,)
v.) CASE NO. 1:22-cv-04850-NSR
PEPSICO INC.,)
Defendant.)

SETH MARSHALL and MATTHEW WHITE, individually and on behalf of all others similarly situated,)
Plaintiffs,)
v.) CASE NO. 7:22-cv-02370-NSR
PEPSICO INC., BOTTLING GROUP, LLC, and CB MANUFACTURING COMPANY, INC.,)
Defendants.)

TYRELL KING, individually and on behalf of all others similarly situated,)
Plaintiff,) CASE NO. 4:22-cv-00360-KGB
v.)
PEPSICO INC.,)
Defendant.)

KENNETHA MITCHELL, individually and on behalf of all others similarly situated,)
Plaintiff,)
v.) CASE NO. 7:22-cv-04555-NSR
PEPSICO INC.,)
Defendant.)

DONEDWARD WHITE, individually and)
on behalf of all others similarly situated,)
)
Plaintiff,)
)
v.) CASE NO. 7:22-cv-05198-NSR
)
PEPSICO INC.,)
)
Defendant.)
)
JAMAL WINGER, individually and on behalf)
of all others similarly situated,)
)
Plaintiff,)
)
v.) CASE NO. 1:22-cv-04828-NSR
)
THE QUAKER OATS CO.,)
)
Defendant.)
)
ALLISON POULSON, individually and on)
behalf of all others similarly situated,)
)
Plaintiff,)
)
v.) CASE NO. 7:22-cv-05196-NSR
)
PEPSICO INC. d/b/a PFS and FRITO-LAY,)
INC.)
)
Defendants.)
)
ROBNEY IRVING-MILLENTREE,)
individually and on behalf of all others)
similarly situated,)
)
Plaintiff,)
)
v.) CASE NO. 1:22-cv-04784-NSR
)
PEPSICO INC.,)
)
Defendant.)

TRACY ELLIS,)
individually and on behalf of all others)
similarly situated,)
)
Plaintiff,)
)
v.) CASE NO. 7:22-cv-05200-NSR
)
PEPSICO INC.,)
)
Defendant.)

THOMAS PARRISH, individually and on)
behalf of all others similarly situated,)
)
Plaintiff,)
)
v.) CASE NO. 7:22-cv-04556-NSR
)
FRITO-LAY NORTH AMERICA, INC. and)
PEPSICO, INC.)
)
Defendants.)

DEVIN DROBSCH, individually and on)
behalf of all others similarly situated,)
)
Plaintiffs,)
)
v.) CASE NO. 7:22-cv-04216-NSR
)
PEPSICO INC.,)
)
Defendant.)

JOSHUA SMITH, individually and on behalf)
of all others similarly situated,)
)
Plaintiff,)
)
v.) CASE NO. 7:22-cv-04238-NSR
)
PEPSICO INC.,)
)
Defendant.)

JACOB TSCHUDY, individually and on behalf of all others similarly situated,)
)
)
Plaintiff,)
)
v.) CASE NO. 7:22-cv-04212-NSR
)
PEPSICO INC.,)
)
Defendant.)
)

PLEASE TAKE NOTICE that for the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Final Approval of Class and Collective Action Settlement, for Award of Attorneys' Fees, and Approval of Service Payments to the Named Plaintiffs, and upon the Declarations of Seth R. Lesser filed in support of that Motion, together with the exhibits annexed thereto, Plaintiffs, by and through their undersigned counsel, and following a Fairness Hearing to be held, as previously scheduled, before this Court on April 4, 2023, at 2 p.m., respectfully request that the Court enter an Order: (i) granting final approval of the proposed class and collective action settlement ("Settlement") preliminarily approved by the Court on December 2, 2022 (ECF No. 73) and attached as Exhibit A to the Declaration of Seth R. Lesser filed in support of preliminary approval (ECF No. 57); (ii) granting final certification of the settlement classes for settlement purposes only, under Federal Rule of Civil Procedure 23(b)(3), and of the collective under 28 U.S.C. § 216(b); (iii) granting approval of attorneys' fees in the amount of \$7,329,310 and costs and expenses in the of \$39,420.11; and (iv) granting approval of service payments of \$5,000 to each of the following Plaintiffs: Emanuele Stevens, Moises Madriz, Rodney Ulloa, Ricardo Vidaud, Jorge Mendoza, Seth Marshall, Matthew White, Tyrell King, Kennetha Mitchell, Donedward White, Jamal Winger, Allison Poulson, Robney Irving-Millentree, Tracy Ellis, Thomas Parrish, Devin Drobisch, Joshua Smith, William Muller, Jamaar Codrington, and Jacob Tschudy.

A proposed order is attached as Exhibit A hereto.

Rye Brook, New York
Dated: March 21, 2023

Respectfully submitted,

KLAFTER LESSER LLP

/s/ Seth R. Lesser

Seth R. Lesser Bar No. SL5560
Christopher M. Timmel Bar No. CT9831
Two International Drive, Suite 350
Rye Brook, NY 10573
Telephone: (914) 934-9200
E-mail: seth@klafterlesser.com
E-mail: christopher.timmel@klafterlesser.com

SCOTT & WINTERS LAW FIRM, LLC

/s/ Ryan A. Winters

Joseph F. Scott
(admitted pro hac vice)
Ryan A. Winters
(admitted pro hac vice)
Kevin M. McDermott II
(admitted pro hac vice)
The Caxton Building
812 Huron Rd. E., Suite 490
Cleveland, OH 44115
Telephone: 216-912-2221
jscott@ohiowagelawyers.com
r winters@ohiowagelawyers.com
kmcdermott@ohiowagelawyers.com

PARMET PC

/s/ Matthew S. Parmet

Matthew S. Parmet
(admitted pro hac vice)
3 Riverway, Ste. 1910
Houston, TX 77056
Telephone: 713-999-5228
matt@parmet.law

MORGAN & MORGAN, P.A.

/s/ Andrew R. Frisch

Andrew R. Frisch
8151 Peters Road, Ste. 4000
Plantation, FL 33324
Telephone: 954-318-0268
AFrisch@forthepeople.com

*Attorneys for Plaintiffs, Proposed FLSA Settlement
Collective, and Proposed Fed. R. Civ. P. 23 Settlement
Class and Subclasses*

CERTIFICATE OF SERVICE

The undersigned certifies that on March 21, 2023, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sends notification of such filing to the following counsel of record:

Linda H. Joseph, Esq.
Ginger D. Schröder, Esq.
SCHRÖDER, JOSEPH & ASSOCIATES, LLP
394 Franklin St., 2nd Floor
Buffalo, NY 14202
Phone (713) 881-4901
Fax (716) 881-4909
Email: ljoseph@sjalegal.com

Alison Ashmore
Dykema Gossett PLLC
1717 Main Street
Suite 4200
Dallas, TX 75201
214-462-6400
Fax: 866-781-2975
Email: aashmore@dykema.com

KLAFTER LESSER LLP

/s/ Seth R. Lesser
Seth R. Lesser